

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKDaniel Forte

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

Detective B. McNellis, #5286
Detective Garrity, and
New York City Police Department

COMPLAINT

under the
Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)Jury Trial: ☒ Yes ☐ No
(check one)

16 CV 0560

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name

Daniel Forte

ID #

14A2269

Current Institution

Attica

Address

P.O. Box 149, Attica NY 14011-0149

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1

Name

Detective B. McNellis

Shield #

5286

Where Currently Employed

Address

Defendant No. 2 Name Detective Garrity Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 3 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 4 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 5 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. In what institution did the events giving rise to your claim(s) occur?
Squad 34 1/2 East 12 St NY, NY 1003 NYPD Manhattan Robbery
- B. Where in the institution did the events giving rise to your claim(s) occur?
Interview room (holding area)
- C. What date and approximate time did the events giving rise to your claim(s) occur?
Approx. 7pm 4-24-13

D. Facts: See Attachment "A"

What
happened
to you?

Who did
what?

Was
anyone
else
involved?

Who else
saw what
happened?

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☐ No ☒

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes _____ No _____ Do Not Know ☒

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes _____ No _____ Do Not Know ☒

If YES, which claim(s)? _____

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes _____ No ☒

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes _____ No ☒

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance? N/A

1. Which claim(s) in this complaint did you grieve? N/A

2. What was the result, if any? N/A

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. N/A

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: N/A

2. If you did not file a grievance but informed any officials of your claim, state who you informed,

when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

N/A

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount).

For compensatory damages, I would like to sue the defendants for their actions \$50,000,000. As for punitive damages, I believe the officers acted with malice and evil intent in violating my rights. Also one Dollar for Nominal damages.

VI. Previous lawsuits:

On these claims

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ___ No ☒

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?
Yes ____ No ☒

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____


I declare under penalty of perjury that the foregoing is true and correct.

Signed this 13 day of January, 2016

Signature of Plaintiff

Inmate Number

Institution Address


14A2269
Attica Corr. Fac.
639 Exchange St.
Attica, NY. 14011

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 13 day of January, 2016 I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:



ATTACHMENT "A"

On April 24th, 2013 6p.m., I was at my mother's house , 86 dekalb ave apt # 5C White Plains, N.Y. 10605, with my mother, my wife, and a friend who set up a meeting for me with a lawyer regarding a family court matter. After the lawyer left, I walked my wife to her car and then headed back to my mother's house. Me and my friend were on the living room couch watching T.V. catching up with each other until it was time for me to go to work. When my mother got a call from a friend saying that she seen alot of police in the staircase closest to our apartment , and she was going out there to see what was happening. Moments later, I heard the doorbell ring and screamed "who is it"? But nobody answered. I looked through the peephole and only seen my mother and she must've heard me press up against the door because she yelled its me mommy. I opened the door and approximately eight cops emerged from blind spots and the staircase. None of them were in uniform , just plain clothes and some had wind-breaker jackets on that read N.Y.P.D on them.

Detectives McNellis and Garry were in the front of the other officers in my doorway and they asked me was I Daniel, I said yes. My mother walked in and said they want to speak to you about a phone and said you're not in any trouble. That's when Det. McNellis asked me do I have I cell phone. I said yes and showed it to him, he took it, and placed it in his pocket, then he asked me do I mind coming with them, because they needed to talk to me. I said about what ? He replied "nothing serious, just about the phone". I said well, I cant talk to you because I'm on parole and im not supposed to have police contact. I told him that whatever he needs to say to me he could say it right here but he insisted that we speak in private. When I said no I backed up out of arms reach and my mother asked me do I want to speak with them, and before I could answer, Det. McNellis walked into my mother's house followed by other officers. Det. McNellis asked me to step outside, and I asked him was I under arrest which he replied "NO", and that he wanted to just talk in private. I told him that I dont feel comfortable with that. At this point, one of the officers began to search my house and my mother yelled " sir I never gave permission" , and which he returned to the front of the house. More officers came in the house ,and I became nervous so I sat on my couch next to my friend. Det. McNellis asked me to step outside again trying to assure me that I wasn't in any trouble, but stated "we can do this the easy way or the hard way" so I said ok but I need to use the bathroom first which he said was fine. Moments later, after I was in the bathroom , Det. McNellis barges in , grabs me by the arm and said you can use the bathroom when we get to where were going.

Det. Garry placed me under arrest once me and Det. McNellis entered the hallway outside of my apartment. At this time I was searched by Det. Garry and narcotics was found in my pocket which he took and placed in his pocket. I was escorted outside the buliding to their car, and was drove to the robbery unit in New York City. Det.

ATTACHMENT "A" cont.

McNellis and Garry took me upstairs in the buliding to a sercured interview room which I was handcuffed to a pole, read my miranda rights , which I signed , and questioned for another 5 to 6 hours about my cell phone and how I got it. I asked what happened, and Det. McNellis said there was a home invasion in which a robbery took place, and someone was shot. That this phone was taken from that home. I told him that I had nothing to do with the crime and I was willing to give fingerprints, DNA and / or do a line up. He told me to just tell him how I got the phone so I did. He kept leaving the room and calling someone on his cell phone and after a few calls he came back into the room and said the D.A. does not want to press charges, then stated that I was not the person who he believed he was looking for, and that he was going to take me back home in which he was reffering to White Plains N.Y.

He then asked me if I wanted to call my mother and let her know I was ok, I said yes and he allowed me to do so. When I got of the phone, I saw him on his cell phone again, he told me that the White Plains police wanted to speak to me, I asked about what, he stated that he didn't know. He then tells me that he's going to take me to them, I tell him that I wish not to go, because I was already late for work, and he says he'll call them back to see if they can meet me at my house. He did , and then says to me that he has to take me to White Plains police station, I asked again was I under arrest and which he says "No" so I state the I wish not to talk to them and I can find my own way home. Det. McNellis says he has to take me, and him and Det. Garry placed me back in handcuffs as well as ankle shackles and took me to White Plains Police Departmenet where they arrested me for the charges the N.Y.P.D did not charge me with and was later dismissed on Nov 18 , 2013

DANIEL FORTE 14-A-2269
Attica Correctional Facility
P.O. Box 149
Attica, New York 14011-0149

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
500 PEARL STREET
NEW YORK, N.Y. 10007-1312



CORRECTIONAL FACILITY



ATTICA

Pro Se Intake
1/22/2016

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